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March 6, 2002

Mr. William Caton  
Acting Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: CC Docket Nos. 96-115 and 96-149, **Ex Parte**

Dear Mr. Caton:

This is in response to an *ex parte* notice filed on February 20, 2002, by WorldCom, Inc. regarding the Commission's proceeding on customer proprietary network information ("CPNI"). In its letter, WorldCom asserts that the Commission should find that, despite the customer notification requirements listed in paragraph (f) of section 64.207 of the Commission's rules, competing carriers ("CLECs") should be able to obtain access to a customer's service records of another carrier based on a customer's oral consent under certain circumstances. In particular, it seeks Commission concurrence that it can obtain such access upon oral consent "for the purpose of placing a local service order," in which case the consent would be only for the duration of the call. In that event, WorldCom claims that "a number of the long-term disclosures do not, and should not apply."

There is no legal or policy basis to permit any unaffiliated third party to gain access to a customer's services records upon unverifiable oral consent "for the purpose of placing a service order" or for any reason. The Act requires prior written customer consent before a carrier may release CPNI to an unaffiliated third party. This restriction is also good public policy, because it helps protect customer privacy by ensuring that a customer has given explicit consent before the records are given to third parties. Allowing access on a claim of verbal authorization could embroil the carriers – and the Commission – into endless squabbles about whether the customer had, in fact, authorized release and could undermine customer privacy expectations by resulting in release to third parties without clear consent. It was to avoid just those types of disputes that the Commission tightened its slamming rules to require more than a claim of oral consent. By contrast, customers expect a carrier to have access to CPNI to sell its own products and services, and therefore prior written authorization for such use should not be required.

In balancing customers' privacy concerns with the CLECs' needs, Verizon facilitates CLEC access to customer records by giving competing carriers immediate electronic access to a customer's service records once the carrier certifies that it has obtained verifiable written consent. That certification consists of merely checking a box on an electronic request form. Although Verizon has the right to audit that certification, it does not generally do so unless the customer states that it failed to give the claimed consent. As a result, a CLEC has ready access to customer service records whenever the customer provides written consent. This authorization process protects both the requesting carrier and Verizon against claims that the records were released without consent.

In regards to obtaining access to a customer's service record when placing an order, because a CLEC must have already obtained verifiable customer consent before it can switch the customer under the Commission's anti-slamming rules (*See* 47 C.F.R. § 64.1100 *et seq*), there is no need for additional customer authorization to access a customer's service records to complete the service order. Accordingly, after the CLEC has obtained consent as required by the Commission's slamming rules, the CLEC would have appropriate authorization to electronically access a customer's service record for the purpose of completing the service order and need only check the certification box to obtain such access.

Therefore, the current rules already provide WorldCom with the opportunity to access customer records both upon written authorization and as part of the local service order process while protecting both itself and Verizon against unjustified claims that the records were released without authorization. No additional Commission clarification is needed for this result.

To the extent that WorldCom may be asking to use verbal per-call consent to access the customer's service records for marketing purposes, there is no valid argument that the inbound marketing exception in section 222(d)(3) would allow access by a competing carrier to customer records upon verbal consent. And that section certainly would not permit such access for outbound marketing. The fact is that there is nothing in the Commission's rules or orders that justifies giving a CLEC any different access to customer service records when it is marketing its services than is given to any other third party. A Commission finding that the CPNI rules do not apply to marketing disclosures to a CLEC would be inconsistent with restrictions on CPNI disclosure in the Act.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Bell". The signature is written in a cursive, flowing style.

Cc: Marcy Greene  
William Dever